

REMARKS

Original Claims 1-10 and 12-15 remain pending in the reissue application, with Claims 1, 9, 11, 15, 19 and 44-45 currently being amended and new claims 16-26 and 28-39 added to the present Application for Reissue Patent in accordance with the provisions of 37 C.F.R. § 1.173 and MPEP § 1453. Original Claim 11 and previously submitted new Claim 27 have now been canceled. No new matter is believed to be added by this amendment.

A. Support for Claim Amendments/New Claims

Pursuant to the provisions of 37 C.F.R. § 1.173(b)(2), Applicant hereby identifies support for the amendments to original Claims 1, 10 and 12 and new Claims 16-39 of the present reissue application, as set forth above, in the specification of the '847 patent:

Claim 1 as presently pending recites a ridge ventilation system comprising a plurality of ridge vent sections each having ends and longitudinal edges and configured to be arranged end-to-end so as to cover an open ridge of a roof, and with each ridge vent section having a laterally flexible central panel flanked by ventilation grids that extend along and are inboard of the longitudinal edges; and with a plurality of fasteners being located between the longitudinal edges of at least some of the ridge vent sections, the plurality of fasteners being removably secured to the ridge vent sections at a series of first locations and thereafter being removable by an installer for use along the ridge vent sections at selected locations that are different from the first locations for fastening the ridge vent sections to a roof. Support for Claim 1 as presently amended can be found in Claim 1 of the '847 patent as issued and in the specification at col. 7, line 57 – col. 8, line 40 and at Fig. 8.

Original Claim 10, as presently pending, recites a ridge ventilation system comprising a plurality of ridge vent sections each having ends and longitudinal edges and configured to be arranged end-to-end for covering an open ridge of the roof, with each of the ridge vent sections having a laterally flexible central panel flanked by ventilation grids, a drain for diverting water that may seep into the junction between a pair of end-to-end ridge vent sections, and with the drain comprising a laterally extending trough integrally formed on and extending along one end of each of the ridge vent sections, the trough being sized and configured to underlie the junction between two joined ridge vent sections to receive water and divert water toward said ventilation grids of the

ridge vent sections. Support for this claim can be found in Claim 10 of the '847 patent as issued and in the patent specification at col. 5, lines 31-49 and in Figs. 1-6.

Claim 12, which is dependent from Claim 10, has been amended to further recite a plurality of fasteners removably secured to each of the ridge vent sections between the longitudinal edges thereof. Support for this claim can be found in the specification at col. 7, line 57 – col. 8, line 2 and in Fig. 8 of the '847 patent as issued.

New Claim 16 claims a ridge ventilation system having a plurality of ridge vent sections configured to be arranged end-to-end covering an open ridge of a roof, with each ridge vent section having a laterally flexible central panel flanked by ventilation grids, and a plurality of fasteners stowed on at least one of the ridge vent sections for use in fastening the ridge vent section to a roof. Support for this claim is found in claim 1 of the '847 patent as issued and in the specification at Col. 2, ll. 44-52 and ll. 54-57; and Col. 8, ll. 15-20 and ll. 32-36.

New Claim 17 claims the ridge ventilation system of Claim 16 and further comprises wind baffles positioned outboard of the ventilation grids. Support for this claim is found in the specification of the '847 patent as issued at Col. 2, ll. 57-60.

New Claim 18 claims the ridge ventilation system of Claim 17 and wherein each wind baffle is supported by an array of buttresses extending between the wind baffle and the corresponding ventilation grid. Support for this claim is found in the specification of the '847 patent as issued at Col. 5, ll. 38-41.

New Claim 19 claims the ridge ventilation system of Claim 16 and wherein the fasteners are nails. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 3-6.

New Claim 20 claims the ridge ventilation system of Claim 17 and further comprises a drain trough formed between each ventilation grid and the corresponding wind baffle, weep holes formed along each drain trough, and upstanding barriers positioned along the drain trough and aligned with the weep holes. Support for this claim is found in the specification of the '847 patent as issued at Col. 3, ll. 31-44.

New Claim 21 claims the ridge ventilation system of Claim 16 wherein the fasteners are driven into holes formed along the lengths of the ridge vent sections. Support for this claim is found in the specification of the '847 patent as issued at Col. 7, l. 47.

New Claim 22 is directed to the ridge ventilation system of Claim 21 wherein the holes are disposed within the laterally flexible panel. Support for this claim is found in the specification of the '847 patent as issued at Col. 7, ll. 39-47; Col. 8, ll. 31-35; and Figs. 1-6 and 8.

New Claim 23 claims the ridge ventilation system of Claim 22 wherein the fasteners comprise nails. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 3-6.

New Claim 24 claims the ridge ventilation system of Claim 16 wherein there are a sufficient number of fasteners to fasten the ridge vent section to the roof and shingles to the ridge vent section. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 3-6.

New Claim 25 claims a ridge ventilation system of Claim 16 and wherein the plurality of fasteners is removably stowed on the ridge vent section. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 31-35.

New Claim 26 claims a ridge ventilation system having a plurality of ridge vent sections each of which includes a laterally flexible central panel with holes therein and flanked by ventilation grids, a plurality of fasteners carried by at least one of the ridge vent sections. Support for this claim is found in the specification of the '847 patent as issued at Col. 2, ll. 44-52 and ll. 54-57; Col. 7, ll. 39-47; and Col. 8, ll. 15-20 and ll. 31-34.

New Claim 28 claims the ridge ventilation system of Claim 26 and further comprises wind baffles positioned outboard of the ventilation grids. This claim is supported by the specification of the '847 patent as issued at Col. 2, ll. 57-60.

New Claim 29 claims the ridge ventilation system of Claim 26 and further comprising an array buttresses extending between at least one of the wind baffles and the corresponding ventilation grid. Support for this claim is found in the specification of the '847 patent as issued at Col. 5, ll. 38-41.

New Claim 30 claims the ridge ventilation system of Claim 26 wherein the plurality of fasteners includes a number of fasteners sufficient to fasten the ridge vent section to a roof and to fasten

shingles over the ridge vent section. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 3-6.

New Claim 31 claims a ridge ventilation system of Claim 26 and wherein the plurality of fasteners is removably carried by the ridge vent sections. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 31-35.

New Claim 32 claims a ridge vent section comprising a central panel and a ventilation grid formed along an edge of the central panel with a fastener stowed on the ridge vent section for fastening the section to a roof. Support for this claim is found in the specification of the '847 patent as issued at Col. 2, ll. 49-52 and ll. 54-57; and Col. 8, ll. 15-20 and ll. 32-36.

New Claim 33 claims the ridge vent section of Claim 32 and further comprising a hole in the panel. Support for this claim is found in the specification of the '847 patent as issued at Col. 7, ll. 39-47; Col. 8, ll. 31-35 and Figs. 1-6 and 8.

New Claim 34 claims the ridge vent section of Claim 33 wherein the fastener is driven into the hole when fastening the ridge vent section to a roof. Support for this claim is found in the specification of the '847 patent as issued at Col. 7, l. 47 and Col. 8, beginning at l. 6.

New Claim 35 claims the ridge vent section of Claim 34 wherein the fastener comprises a nail. Support for this claim is found in the specification of the '847 patent as issued at Col. 8, ll. 3-6.

New Claim 36 claims the ridge vent section of Claim 32 wherein the central panel is laterally flexible. Support for this claim is found in the specification of the '847 patent as issued at Col. 2, ll. 49-52.

New Claim 37 claims the ridge vent section of Claim 32 and further comprises a wind baffle positioned outboard of the ventilation grid. This claim is supported by the specification of the '847 patent as issued at Col. 2, ll. 57-60.

New Claim 38 claims the ridge vent section of Claim 37 and also includes a drain trough formed between the ventilation grid and the wind baffle. Support for this claim is found in the specification of the '847 patent as issued at Col. 3, ll. 31-33.

New Claim 39 claims the ridge vent section in Claim 38 and further comprises a weep hole formed in said drain. Support for this claim is found in the specification of the '847 patent as issued at Col. 3, ll. 34-36.

B. Claim Rejections

1. Claims 1, 16-19, 21-24, 26 and 28-42

Claims 1, 16-19, 21-24, 26 and 28-42 have been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over *Smith* (U.S. Patent No. 5,772,502) in view of *Sharp, et al.* (U.S. Patent No. 6,165,066), with the rejection asserting that these references, when considered together, purportedly teach all the elements recited by Claims 1, 16-24, 19, 21-26 and 28-42.

The present rejection of Claims 1, 16-19, 21-24, 26 and 28-42 appears to be based upon the Examiner's assertion that *Smith* discloses many of the limitations of, for example, independent Claims 1, 16, 26 and 32 with regard to the ridge vent sections substantially as claimed. The rejection acknowledges, however, that *Smith* fails to teach certain limitations of these claims, including the recitation of a plurality of fasteners being removably secured to each of the vent sections, such as in respective features on at least one of the ridge vent sections, and being positioned to be removed by an installer for use along the vent sections at locations different from the first locations for fastening the vent sections to the roof; the ridge vent sections being configured to receive and releasably hold respective fasteners in accessible storage positions or first locations. The rejection, however, asserts that *Sharp, et al.* purportedly teaches a fastener held by a feature on a vent section between longitudinal edges prior to installation of the vent section on a wall, "the fastener (200) having a first position (Fig. 19, pre-nailed position) relative to the vent section (34 and 35) when stowed in said features (212) and a second position (Fig. 22, a nail position) different from the first position relative to the ridge vent section when fastening the ridge vent section to the wall." The rejection concludes that it would have obvious to one of ordinary skill in the art to try to modify *Smith's* ridge ventilation system by providing each ridge vent section with a plurality of fasteners removably stowed in features integrally formed along the vents prior to arrangement of the ridge vent sections on a roof, as purportedly taught by *Sharp, et al.*, "in order to have labor-saving techniques, or changes in the apparatus which would reduce the cost of installation." Applicant respectfully requests reconsideration.

Again, as with the prior rejection of Claims 1, 16-19, 21-26 and 28-39 based on the previously proposed combination of *Smith* as modified in view of *Zampini, Jr., et al.* (apparently now withdrawn), the present rejection of these claims appears to be based upon a supporting rationale of a teaching, suggestion or motivation being provided in the prior art (*i.e.*, “in order to have labor-saving techniques, or changes in the apparatus which would reduce the cost of installation”) that purportedly would have led one of ordinary skill in the art “when *Smith* is viewed in light of *Sharp, et al.*,” to try to modify the ridge ventilation system of *Smith* to provide a plurality of fasteners removably stowed in integrally formed features between longitudinal edges of each ridge vent section prior to the arrangement of the ridge vent sections on a roof, as purportedly taught by *Sharp, et al.* Applicant respectfully submits that the purported rationale offered as support for modifying *Smith* with the fasteners of *Sharp, et al.* fails to provide proper support for the asserted conclusion that one of ordinary skill in the art would seek to combine the fasteners as shown in *Sharp, et al.* with *Smith* to try to form the claimed invention, which conclusion apparently is reached only after viewing *Smith* in light of *Sharp, et al.* The rationale of a “teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to modify the prior art reference or combine the prior art reference teachings to arrive at the claimed invention,” as set forth in the present rejection, requires a more extensive analysis and explanation, under MPEP § 2143(G) to serve as a basis for obviousness under 35 U.S.C. § 103(a). Notably, MPEP § 2143(G) provides that:

To reject a claim based upon this rationale, office personnel must resolve the *Graham* factual inquiries. Then, office personnel must articulate the following:

- (1) A finding that there was some teaching, suggestion, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- (2) A finding that there was reasonable expectation of success; and
- (3) Whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain the conclusion of obviousness.

Such a showing of a reasonable expectation of success and/or some motivation or suggestion to actually combine *Sharp, et al.* and *Smith*, as well as “explicit” reasons therefor has not been shown in the present rejection.

As is well settled, when considering references in terms of an obviousness inquiry under 35 U.S.C. § 103, the references necessarily must be considered in their entireties, for all that they teach. (See MPEP § 2141.02). Considering the cited references of *Smith* and *Sharp, et al.* in their entireties, it is unclear from the rejection as to how the adhesively attached nails 200 that necessarily are arranged and designed to be driven between lips 212 of the foundation (wall) ventilator of *Sharp, et al.* could or would somehow be utilized in the adjustable pitch roof vents of *Smith* in a practical manner to try to form the claimed invention without affecting the preferred design and construction of *Smith*. *Smith* is directed to an adjustable pitch ridge vent system having ventilation means 58 and 60 mounted along the side edges of the ridge vent sections. (See Figs. 1-3) which includes a plurality of spaced ribs 66 defining ventilation openings 68 therebetween “for allowing air to escape from with the building’s attic, out the opening 40.” (See Col. 3, ll. 30-36). The gutters 70 and 72 of the *Smith* ridge vent sections also appear to be designed with specific or desired angles, sizes/lengths and shapes, including a requirement of upturned lips 82 and 84 that extend along the gutters 70 and 72 of this roof vent and “create a region of low pressure adjacent louvered openings 68 and draws air through louvered openings 68 of ventilation means 58, 60 from underneath the roof vent 20, thereby causing air to be drawn out of the building’s attic and out of the opening 40, thereby cooling and ventilating the attic.” (See Col. 3, l. 36 – Col. 4, l. 19). *Smith*’s construction thus appears to be requiring lateral vent openings and specific lengths and angles of the gutters formed therealong to facilitate escape of air out of the roof’s peak so as to pass under the vent and out of the ventilation openings, which would seem to leave no room for and would teach away from the adhesive attachment of fasteners along the gutter sections of *Smith*, as taught by *Sharp, et al.*, as the application of such adhesive materials potentially would/could interfere with the required ventilation openings formed along the sides of the *Smith* roof vents, by clogging or sealing such openings.

Moreover, the rejection further fails to recognize or understand the environment in which the claimed invention is to be used. As noted, the claimed invention is designed to be installed on a roof, over the peak or ridge thereof. Thus, an installer typically will be standing on an angled or sloped roof surface and will be applying the ridge vent over the top of the ridge or peak of the roof, which could be upwards of 20 to 50 feet above the ground, or in some cases even higher. With the present invention, installers are provided with secure and easy access to the specialized roofing nails typically required for the mounting of ridge vents to the roof, without having to unscrew or perform some other similar method of removal of all the fasteners to enable proper seating of the ridge vents

followed by reinstallation of the fasteners in the same holes. Instead, with the claimed invention, the installer is able to simply remove the fasteners as needed from a conveniently stowed position, without interference with the ventilation aspects of the ridge vent, and thereafter apply the fasteners in desired locations for securing the ridge vent to the roof. Neither *Smith* nor *Sharp, et al.*, either alone or in combination, teaches such a convenient arrangement system that enables the fasteners to be contained and thereafter removed and placed as needed for securing the ridge vent sections on a roof under a variety of conditions. Instead, as can be seen in the drawings of the *Smith* patent, *Smith* simply discloses respective bores formed through a molded guide and into which anchoring nails are later placed and driven to attach his roof vents to roof decking panels, while *Sharp, et al.* simply shows pre-arranged and set fasteners for a foundation vent.

Sharp, et al. accordingly fails to cure the deficiencies of *Smith* in trying to form the claimed invention. Contrary to the assertions made in the Official Action that *Sharp, et al.* somehow shows nails were being provided in a position to be removed by an installer for use at separate, different locations, it appears that such a feature is not taught by *Sharp, et al.* As discussed at Col. 10, ll. 29-32 of *Sharp, et al.*, nails 200 are glued in place between lips 212, and in particular, these upper and lower lips 212 are spaced and “adapted to frictionally secure therebetween a nail 200 of a preselected size,” with adhesive 214 further being used to secure the nail between the lips, but does not appear to reference the removal of the nails 200 from between these lips 212 for thereafter repositioning the nails at some other position or location along a roof vent for application of the nails. Instead, it appears that the nails 200, which are further secured/located between the lips 212 by an angular wedge 216, are designed to already be positioned/located for installation so that they can simply be driven or pounded into the supporting wall frame onto which *Sharp, et al.*’s foundation ventilator is applied, with the fasteners 200 simply being driven into the openings between the lips 212 as indicated in Fig. 20.

Following the teachings of *Sharp, et al.* thus would require that his fasteners be mounted within the mounting openings of the *Smith* roof vent and secured thereto by an adhesive, as well as by the lips 212, an angular wedge 216 and/or “two strengthening ribs RB” to hold the fasteners in position in the mounting holes and ensure the fasteners do not break the lips 212 when installed, thus requiring significant additional structure to be added to *Smith*. The location and securing of the fasteners within the actual mounting holes of *Smith* with such an adhesive, lips, wedge and strengthening ribs would, however, likely interfere with the positioning and location of the ridge

vents of *Smith*, making it difficult for the ridge vents to be properly seated over the ridge or peak of a roof since the fasteners would already be extended therethrough, thus requiring the removal of all of the fasteners before the ridge vents even could be used. Having to remove the fasteners to first fully and stably seat the vent on a sloped/angled rooftop, then re-insert and drive the fasteners into the mounting holes of *Smith* would, however, defeat the purpose of putting them in these holes prior to installation, and would tend to create, rather than save, labor by the installer(s). Thus, neither reference, alone or in combination, discloses the anchoring nails being provided in an accessible storage position along the ridge vent sections prior to arrangement of the ridge vent sections on a roof, and after proper seating/positioning of the ridge vent sections, the fasteners can be quickly and easily removed and applied in a fastening position that is different from the storage position when the ridge vent sections are fastened to the roof as claimed.

Accordingly, it is respectfully submitted that claims 1, 16-19, 21-24, 26 and 28-42 are patentable over the proposed combination of *Smith* in view of *Sharp, et al.*, and thus the rejection of claims 1, 16-9, 21-24, 26 and 28-42 under 35 USC § 103(a) should be withdrawn.

2. Claim 20

Claim 20 also has been rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over the combination of *Smith* in view of *Sharp, et al.*, and further in view of *Gates* (U.S. Patent No. 5,149,301). The rejection asserts that “[T]hese four references, when considered together, teach all of the elements recited in Claim 20 of this application.” More specifically, the rejection asserts that *Smith* as modified by *Sharp, et al.* purportedly discloses all the elements of base Claim 17 from which Claim 20 depends, but fails to teach “upstanding barriers positioned along said drain troughs and aligned with weep holes for preventing rain from being blown through said weep holes and into said ventilation grids” as taught by Claim 20. *Gates* is then cited as purportedly teaching a roof ridge ventilator having drain troughs, weep holes and “upstanding barriers (inner, wind deflecting baffles (32) positioned along the drain troughs (28) and aligned with the weep holes (30) for the purpose of preventing wind driven rain and/or snow from being blown through the weep holes (30) and into the ventilator (10).” Applicant respectfully requests reconsideration.

The teachings of *Smith* and *Sharp, et al.* and the failure of the proposed combination thereof in attempting to form the invention recited by Claims 1 and 16-17 are discussed above. Thus, the overall proposed combination of *Smith* and *Sharp, et al.* as further modified by *Gates* fails to

establish a prima facie case of obviousness for at least the reasons that the proposed combination fails to include all the elements recited by Claims 16 and 17, from which Claim 20 depends, and therefore Claim 20, as presently pending, is believed to be patentable over the suggested combination of *Smith, Sharp, et al.* and *Gates*. It is therefore respectfully submitted that the rejection of Claim 20 under 35 U.S.C. § 103(a) should be withdrawn.

D. Allowable Subject Matter

Claims 10 and 12-15 have now been allowed.

Claims 2-9 further have been objected to as being dependent upon a rejected base claim, but are stated to be allowable if rewritten in independent form, including all the limitations of the base claim and intervening claims. As discussed more fully above, Claim 1, from which Claims 2-9 depend, is believed to be allowable over the cited art of record. It therefore is believed that the objection of Claims 2-9 is obviated in view of the allowability of Claim 1 and therefore withdrawal of this objection is respectfully requested.

CONCLUSION

In summary, it is respectfully submitted that original Claims 1-10 and 12-15, as presently pending, and new Claims 16-26 and 28-42 define a ridge ventilation system that provides a distinct advance in the art that is taught or made obvious by the cited art of record. An early notice of allowance accordingly is solicited. Should the Examiner have any questions or if there remain any issues that can be resolved by the Examiner's amendment, she is invited and urged to telephone the undersigned attorney.

Date: 11-2-2011



D. Scott Sudderth
Registration No. 34,026
Steven D. Kerr
Registration No. 32,472

Attorneys for Applicant
Customer No. 26158
Womble Carlyle Sandridge & Rice, LLP
P.O. Box 7037
Atlanta, GA 30357-0037
(404) 962-7527 (Telephone)
(404) 870-8177 (Facsimile)